

Application No. 10/816,783  
Amendment dated January 16, 2007  
After Final Office Action of November 15, 2006

Docket No.: 03910/0201067-US0

**AMENDMENTS TO THE DRAWINGS**

The attached sheet(s) of Replacement Drawings are submitted in response to the objections of the Draftsperson shown on PTO Form 948 attached to the Office Action.

Attachment:      Replacement sheets

### **REMARKS**

Claims 2-19 are pending. Claims 4, 5, 12, 13, 18 and 19 have been indicated to contain allowable subject matter.

The paragraphs beginning at page 3, line 3, page 5, line 20, and page 6, lines 16 and 20 have been retyped to correct the irregular line spacing.

Replacement drawings are submitted.

Claims 16-19 are proposed to be amended to adopt language used in the Specification. As to amended claims 17 and 19, reference is made to page 6, line 7 of the Specification and to Fig. 5.

The language of claims 3, 4, 7, 10, 11, 12, 13 and 15 is proposed to be amended to correct the points noted by the Examiner that resulted in a rejection of claims 2-12 under §112.

As to claims 11-13, in main claim 15, from which these claims depend, the "flight" is defined (line 5) as having a leading edge. This is edge 18 of Figs. 4 and 5. It is a "take up" edge since it is adjacent to the bottom of the mixing chamber and moves the material upwardly along the flight. Main claim 15 also is proposed to be amended to better define this. It is submitted that the amendments obviate the rejection.

Claims 2, 3, 6, 7, 8, 9, 10, 11, 14, 15 and 17 are rejected as being unpatentable over Chupka, U.S. 4,725,007 in view of Blakley, et al., U.S. 4,593,861.

Claim 15 is the main claim of the application and is proposed to be amended to recite that the leading take up edge of the flight is adjacent to the bottom of the mixer chamber. Therefore, the material to be mixed will be conveyed in an upward direction as the mixing screw rotates.

Claim 12 depends from claim 15 and is directed to the embodiment of Figs. 5 and 6 while proposed new claim 20 depends from claim 15 is directed to the embodiments of Figs. 2-3.

In main claim 15 and the other claims of the application the guide plate is defined as a structure that has an upwardly facing deposition surface. This might be considered to correspond to the rotor of Chupka. In Chupka, the trailing (lower) end of the flight is fixedly attached to a pumping vane 38 which is arranged on an upwardly facing deposition surface, but the surface of this

vane extends vertically. Further, the leading edge of the flight is near the top of the screw. The mixing screw of Chupka is designed and rotated for a downwardly directed operation effect of the material (see Fig. 3 and the description at page 5, lines 1-44). In accordance with the present application the mixing screw moves the matter upwardly.

This demonstrates a clear difference between the present invention and the principal reference to Chupka. Chupka does not have the upwardly facing guide plate at the bottom of the screw and a leading material pickup edge of the screw flight being adjacent the bottom of the mixing chamber. Chupka and the subject invention are directed to accomplish different functions.

The secondary reference to Blakley is cited for the teaching of a discharge opening in a vertically extending wall of the chamber. Combining Blakley with Chupka is illogical. Chupka drives the material downwardly and the material appears to be discharged through a perforated bed plate 18. It would make no sense to place a discharge opening in the vertical wall of Chupka's chamber. Even if the two patents are improperly combined, they do not meet the novel subject matter of claim 15 and its dependent claims in which the material is driven upwardly by the flight and the upwardly facing material deposition surfaces of the guide plates that dispense the material being mixed.

Accordingly, claim 15 and the other claims of the application that are dependent from it patentably distinguish over the cited art and should be allowed.

The amendment should be entered since it does not raise a new issue. It only clarifies the structure of the invention whose operation of the material moving upwardly is more or less implicit in the structure of claim 15 before its proposed amendment.

If the amendment is not entered as placing the application in condition for allowance, then its entry is requested for purposes of appeal.

Application No. 10/816,783  
Amendment dated January 16, 2007  
After Final Office Action of November 15, 2006

Docket No.: 03910/0201067-USO

Prompt and favorable action is requested.

Dated: January 16, 2007

Respectfully submitted,

By 

S. Peter Ludwig

Registration No.: 25,351

DARBY & DARBY P.C.

P.O. Box 5257

New York, New York 10150-5257

(212) 527-7700

(212) 527-7701 (Fax)

Attorneys/Agents For Applicant